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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,470	08/19/2003	Yasuyuki Fujita	Furuta C-37	4088
23474	7590	08/13/2004	EXAMINER	
FLYNN THIEL BOUTELL & TANIS, P.C. 2026 RAMBLING ROAD KALAMAZOO, MI 49008-1699			PEDDER, DENNIS H	
			ART UNIT	PAPER NUMBER
			3612	

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/643,470

Applicant(s)

FUJITA ET AL.

Examiner

Dennis H. Pedder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,6,11,15,16,20,21,25 and 28-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3,28 and 45 is/are allowed.
- 6) ☒ Claim(s) 1,6,11,15-16,20-21,25,29-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 6, 11, 15-16, 20-21, 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 lacks antecedent for "the bottom wall" and "the inner wall".

### ***Election/Restrictions***

3. Claims 3, 28, 45 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 4/5/2004.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

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the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 6, 11, 15-16, 20-21, 25, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art of figure 2 as admitted by applicant in view of Lee et al. or Cook and Lee et al..

The prior art of figure 2 has the claimed grip part of U-shaped cross section inner lips of different lengths at opposite side walls thereof, substantially equal width, cover lip at lower right, seal part 22 opposite the cover lip. The grip body of the prior art of figure 2 as admitted by applicant has a metal insert 23.

Lee et al. teaches that a metal insert is unnecessary in a U-shaped grip part of a weather strip, using instead a rubber material of greater than Hs 90 in order to enhance rigidity and retention. Cook teaches that a U-shaped grip part of a weatherstrip may be manufactured with an insert of thermoplastic material 25.

As a result of these teachings, it would have been obvious to one of ordinary skill to provide in the prior art of figure 2 as admitted by applicant a grip part of enhanced rigidity as taught by Lee et al. in order to dispense with the expense of a metal insert or alternatively, to provide in the prior art of figure 2 as admitted by applicant a thermoplastic insert as taught by Cook in order to reduce weight of the weatherstrip while utilizing a rigid grip part material as taught by Lee et al. in order to further enhance grip. As to claim 6, the grip material is exposed on all outer and inner surfaces.

As to claim 11, grip bodies bent at corner regions are common knowledge in the art and heating and cooling processes are not given patentable weight in a product claim (MPEP 2113). As applicant has not fully traversed this statement of judicial notice, it is made final.

As to claim 21, the walls of figure 2 are unequal with the inner wall longer.

As to claim 29, the left side of the grip part in figure 2 has multiple inner lips.

7. Claims 29-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art of figure 2 as admitted by applicant in view of Cook and Lee et al..

As to claim 30, the grip body extends beyond both rigid insert parts of the prior art of figure 2 as admitted by applicant as modified by Lee et al. It would have been obvious to one of ordinary skill to provide in the prior art of figure 2 as admitted by applicant a non-metal insert as taught by Cook in order to reduce weight and relatively rigid grip material as taught by Lee et al. in order to enhance retention.

As to claims 31-32, the cover lip and seal part are molded to corners of the grip and the seal extends to a side surface of same.

As to claim 33, the grip part of figure 2 has a greater thickness.

As to claim 40, the rigid part of figure 2 is generally J-shaped.

#### ***Response to Arguments***

8. Applicant's arguments with respect to claims of record have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

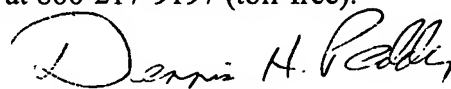
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dover and Kobayashi et al. show other non-metal inserts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (703) 308-2178. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dennis H. Pedder  
Primary Examiner  
Art Unit 3612

8/11/04

DHP  
8/11/2004